

Remarks/Arguments:**A. Pending Claims**

Claims 108-119, 121, 123-164, 166, and 168-186 are pending. Claims 108, 121, 123-125, 140, 153, 166, 168-170, 185, and 186 have been amended. Claims 120, 122, 165, 167, and 184 have been cancelled without prejudice.

B. Specification

The specification has been amended to correct a typographical error.

C. The Claims Are Definite Pursuant To 35 U.S.C. § 112, Second Paragraph

The Examiner rejected claims 170-185 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claim 170 has been amended for clarification. Applicant requests removal of the indefiniteness rejections of claims 170-185.

D. The Claims Are Not Anticipated By Aebi Pursuant To 35 U.S.C. § 102(b)

The Examiner rejected claims 108-111, 113-118, 120, 170-174, and 176-181 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,047,029 to Aebi et al. (hereinafter "Aebi"). Applicant respectfully disagrees with these rejections.

The standard for "anticipation" is one of fairly strict identity. To anticipate a claim of a patent, a single prior source must contain all the claimed essential elements. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F2d 1367, 231 USPQ 81, 91 (Fed. Cir. 1986); *In re Donahue*, 766 F2d 531, 226 USPQ 619, 621 (Fed. Cir. 1985).

Amended claim 108 and amended claim 170 each describe a combination of features including: "wherein a distance between the first section fastening system and the second section fastening system is adjustable." Abei appears to teach a clamp or coupling device for coupling a screw such as a Schanz screw to a support rod. The Abei device appears to allow for tilting of the screw to a desired angle relative to a rod. Abei does not appear to teach or suggest at least the above-quoted features of claim 108 or claim 170, in combination with the other features of the claims. Applicant requests removal of the anticipation rejections of claims 108, 170, and the claims dependent thereon.

E. The Claims Are Not Anticipated By Olerud Pursuant To 35 U.S.C. § 102(b)

The Examiner rejected claims 108, 109, 112-118, 120-123, 125-133, 135-138, 170-172, 175-181, 183, 184, and 186 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,053,034 to Olerud (hereinafter "Olerud"). Applicant respectfully disagrees with these rejections.

Amended claims 108 and 170 describe combinations of features including: "wherein a distance between the first section fastening system and the second section fastening system is adjustable." Olerud appears to teach a spinal joint for connecting a bone screw with a screw spindle. The blocks of the Olerud joint may be turned at an angle relative to each other and locked in the desired angular position. Olerud does not appear to teach or suggest at least the above-quoted features of claims 108 and 170, in combination with the other features of the claims. Applicant requests removal of the anticipation rejections of claim 108, claim 170 and the claims dependent thereon.

Amended claim 125 describes a combination of features including: "wherein the first section and the second section are configured to be angulated relative to each other within a limited range of angulation, wherein the angulation allows the elongated members to be

horizontally skewed with respect to each other.” Support for Applicant’s amendments may be found in FIGS. 1 and 19 and on page 33, lines 2-8, of Applicant’s specification, which states:

Figure 19 shows a top view of an embodiment of a transverse connector 30” where the first section 46 is angulated relative to the second section 48. Elongated members 28 of an orthopedic stabilization system 32 may be horizontally skewed relative to each other. The ability to angulate the first section 46 relative to the second section 48 allows the transverse connector 30” to be coupled to elongated members 28 that are horizontally skewed.

Olerud appears to show a pair of blocks that allow rotation of a screw with respect to a spindle. The rotation plane of the screw is parallel to the rotation plane of the spindle. Olerud does not appear to teach or suggest at least the above-quoted feature of claim 125, in combination with the other features of the claim. Applicant requests removal of the anticipation rejection of claim 125 and the claims dependent thereon.

Amended claim 186 describes a combination of features including: “coupling a fastening system of a first section of the connector to a first portion of an elongated member; ... coupling the second section to a second portion of the elongated member;...” Support for Applicant’s amendments may be found in FIG. 3 and on page 20, lines 26-28, of Applicant’s specification, which states:

the elongated members 28 may be two ends of a single bent and contoured elongated member. The elongated members 28 shown in Figure 3 are two ends of a single bent and contoured elongated member.

Olerud appears to teach a spinal joint for connecting a bone screw to a screw spindle. The Examiner states: “an elongated member (e.g., “screw spindles”) and a second elongated member *are* unitary, contoured *members*” (*emphasis added*). Claim 186, however, does not describe two separate unitary, contoured members. Olerud does not appear to teach or suggest at least the above-quoted features of claim 186, in combination with the other features of claim 186. Applicant requests removal of the anticipation rejection of claim 186.

F. The Claims Are Not Anticipated By Nichols Pursuant To 35 U.S.C. § 102(b)

The Examiner rejected claims 140-151 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Pub. No. 2002/0052603 to Nichols et al. (hereinafter "Nichols"). Applicant respectfully disagrees with these rejections.

Amended claim 140 describes a combination of features including: "an elongated member;... a first section having a fastening system configured to couple the first section to a first part of the elongated member,... a second section having a fastening system configured to couple the second section to a second part of the elongated member..." Nichols appears to teach or suggest the use of two separate elongated members (i.e., spinal rods 12 and 14 shown in Fig. 1). Nichols does not appear to teach or suggest at least the above-quoted features of claim 140, in combination with the other features of the claim. Applicant requests removal of the rejection of claim 140 and the claims dependent thereon.

G. The Claims Are Not Anticipated By Allard Pursuant To 35 U.S.C. § 102(b)

The Examiner rejected claims 108, 119, 125, 134, and 153-165 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,725,526 to Allard et al. (hereinafter "Allard"). Applicant respectfully disagrees with these rejections.

Amended claim 108 describes a combination of features including: "wherein a distance between the first section fastening system and the second section fastening system is adjustable." Allard appears to show a clamp for transporting a bone pin along a hexagonal rod. The pin is connected to the clamp at a fixed distance from the hexagonal rod. Allard does not appear to teach or suggest at least the above-quoted features of claim 108, in combination with the other features of the claim. Applicant requests removal of the anticipation rejection of claim 108 and the claims dependent thereon.

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Amendment

Amended claim 125 describes a combination of features including: "wherein the first section and the second section are configured to be angulated relative to each other within a limited range of angulation, wherein the angulation allows the elongated members to be horizontally skewed with respect to each other". Allard appears to show a clamp for transporting a bone pin along a hexagonal rod. The bone pin is perpendicular to and spaced apart from the hexagonal rod. Allard does not appear to teach or suggest at least the above-quoted feature of claim 125, in combination with the other features of the claim. Applicant requests removal of the anticipation rejection of claim 125 and the claims dependent thereon.

H. Allowable Subject Matter

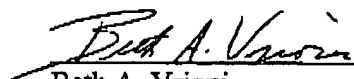
The Examiner stated that claim 167 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. Amended claim 153 includes the features of claim 167 written in independent form.

I. Additional Remarks

Applicant submits that all claims are in condition for allowance. Favorable reconsideration is respectfully requested.

Respectfully submitted,
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